

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

BLONDELL SIMMONS,

Plaintiff,

v.

JEFFREY A. BEARD, et al.,

Defendants.

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Civil Action No. 07-50 Erie

MEMORANDUM JUDGMENT ORDER

Plaintiff's civil rights complaint was received by the Clerk of Court on March 21, 2007 and was referred to Chief United States Magistrate Judge Susan Paradise Baxter for report and recommendation in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Chief Magistrate Judge's report and recommendation, filed on April 9, 2008 [54], recommends that: (1) the Motion to Dismiss filed by Defendants DiMarco and Foltz [23] be granted; (2) the Motion for Summary Judgment filed by Defendants Beard, McCloskey and Winstead [29] be granted; and (3) the Motions for Summary Judgment filed by Plaintiff ([32] and [39]) be denied. The parties were allowed ten (10) days from the date of service to file objections. Plaintiff's objections [57] were filed on April 28, 2008.

After de novo review of the Complaint and the documents in the case, together with the Report and Recommendation and Plaintiff's objections thereto, the following order is entered:

AND NOW, this 30th Day of May, 2008, IT IS HEREBY ORDERED that:

(1) the Motion to Dismiss filed by Defendants DiMarco and Foltz [23] be granted;

(2) the Motion for Summary Judgment filed by Defendants Beard, McCloskey and Winstead [29] be granted; and

(3) the Motions for Summary Judgment filed by Plaintiff ([32] and [39]) be denied.

IT IS FURTHER ORDERED that JUDGMENT be, and hereby is, entered in favor of Defendants Beard, McCloskey, and Winstead and against Plaintiff Blondell Simmons. As a result of the foregoing, the only remaining claims in this case are those that Plaintiff has asserted against Defendant Baronti, who has not yet filed a response to the complaint.

The report and recommendation of Chief Magistrate Judge Baxter [54] dated April 9, 2008 is adopted as the opinion of this Court.

s/ Sean J. McLaughlin

SEAN J. McLAUGHLIN
United States District Judge

cm: all parties of record.
Chief U.S. Magistrate Judge Susan Paradise Baxter